

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE**

UNITED STATES OF AMERICA

v.

NICHOLAS JOSEPH BUCKNER

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No.: 2:19-CR-064

SENTENCING MEMORANDUM

Comes now the United States of America, by and through J. Douglas Overbey, the United States Attorney for the Eastern District of Tennessee, and files this sentencing memorandum in compliance with the Court's Order.

Procedural History

The Grand Jury sitting for the Eastern District of Tennessee at Greeneville returned an indictment on May 14, 2019 charging the defendant with stealing property of the United States. On July 17, 2019, the defendant entered a plea of guilty to Count Two of the Indictment and now confronts a sentence of up to 10 years by virtue of having pled guilty in violation of 18 U.S.C. §§ 641.

For the purposes of this motion, the agreed upon facts supporting this offense are set forth in paragraphs 7 through paragraph 20, at pages 3 to 5 of the Presentence Investigation Report dated July 25, 2019, and are incorporated herein by reference.

Sentencing Considerations

The defendant was the ring-leader of two separate thefts of government property from the USFS Work Center that occurred during break-ins on two separate dates. Fortunately for all, the thefts did not significantly disrupt the United States Forest Service's responsibility to the people it serves, but that does not mean that the thefts were not serious; and but for the good work by law enforcement in solving the crime and recovering the stolen property, the impact would have been

more harmful. The men and women at the USFS Work Center work every day to make our natural resources benefit the masses. The only thing the defendant does with that same consistency is methamphetamine.

The defendant ultimately cooperated with law enforcement, and that cooperation is acknowledged and appreciated. The defendant's exposure is limited in comparison to the cases this Court customarily sees. Nevertheless, the United States would ask the Court to consider the defendant's culpability relative to that of his co-defendants, and the fact that he broke into the work center on multiple occasions.

Recommendations

The presentence report prepared by U.S. Probation establishes that the defendant has a criminal history category of I. The presentence report establishes a total offense level of four. The defendant's guideline range is zero to six months. The defendant will have been in custody for approximately three months at the time of sentencing. A restitution of \$3,438.85 is owed for defendant's offense. Based upon all of the evidence and after consideration of all of the § 3553 factors, the United States believes that a sentence within the guideline range is appropriate.

Respectfully submitted,

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